



Clean Waterways Act Stormwater TAC Updates

Aug. 23, 2021



PRESENTATION TOPICS

- **Legislative Direction**
- **Rule History**
- **Current ERP Program**
- **Establishment of TAC**
- **Draft Recommendations**
- **What's Next**



CLEAN WATERWAYS ACT

- **During the 2020 session, Florida’s Legislature approved the “Clean Waterways Act” (Senate Bill 712), which was signed by Governor DeSantis, on June 30, 2020. The bill was adopted as Chapter 2020-150, Laws of Florida.**
- **This legislation had many directions for improving water quality. The Environmental Resource Permitting (ERP) program is focusing on the stormwater rulemaking portion of this legislation. Other programs are focusing on the other aspects of this law.**
- **In response, the Stormwater Technical Advisory Committee (TAC) was formed on Nov. 4, 2020.**



LEGISLATIVE DIRECTION

Section 373.4131, Florida Statutes, Statewide environmental resource permitting rules.

- **Update stormwater design and operation regulations.**
- **Update ERP Applicant's Handbooks (Volume I and II).**
- **Use the most recent scientific information available.**
- **Consider low impact design Best Management Practices (BMPs).**
- **Increase nutrient removal from stormwater systems.**
- **Reduce pollutant loadings to waterbodies.**



RULE SUMMARY HISTORY

- **1979 Rule 17-4.248, F.A.C.**
- **1982 Chapter 17-25, F.A.C.**
- **1994 Chapter 62-25, F.A.C.**
- **1995 ERP Rules via WMD's (Peninsular FL).**
- **2007 NWERP Chapter 62-346 (Phase 1):**
 - **Stormwater rules updated for the Panhandle.**
- **2010 NWERP Chapter 62-346 (Phase 2):**
 - **Isolated wetlands are now jurisdictional.**
- **2013 Chapter 62-330 (SWERP) (Phase 1).**
- **2018 Chapter 62-330 (SWERP) (Phase 2).**
- **2022? Chapter 62-330 (statewide stormwater).**



CHAPTER 17-25, F.A.C.

The original “statewide” stormwater rule, Chapter 17-25, F.A.C., was adopted by the Environmental Regulation Commission in October 1981 with an effective date of February 1982. This rule was the successor to the state’s first stormwater treatment regulations established in Rule 17-4.248, F.A.C., as an interim regulation.

When adopted in 1982, performance standard for stormwater treatment was set to 80% average annual load reduction of Total Suspended Solids. BMP design criteria were established, based on Florida field data, which provided a rebuttable presumption that the stormwater discharge did not cause harm to water resources.

Although originally implemented statewide by the department, authority for the Chapter 17-25, F.A.C., stormwater permitting program was delegated to each of the water management districts (excepting the NFWMD) in the mid-1980s.



REBUTTABLE PRESUMPTION

- **Individual districts develop specific design criteria for stormwater BMPs.**
- **Every district has a different set of standards.**
- **Design criteria vary widely throughout the state.**
- **Performance efficiencies also vary widely.**
- **Rebuttable presumption that the discharge from such systems will comply with state water quality standards.**



CHAPTER 62-40, F.A.C.

FLORIDA WATER RESOURCE IMPLEMENTATION RULE

- **Requirements for stormwater management outlined in Rule 62-40.432, F.A.C.**
- **DEP coordinates statewide stormwater management program with goals, objectives and guidance for the development and implementation by the districts and local governments.**
- **The WMD's are chief administrators of the program. The department implements the program in districts that do not have the economic and technical resources to implement.**
- **Minimum Stormwater Treatment Performance Standards:**
 - **Achieve at least 80% reduction of average annual load of pollutants that violate water quality standards.**
 - **Achieve at least 95% reduction of average annual load of pollutants that violate water quality standards in Outstanding Florida Waters.**



ERP PROGRAM

CHAPTER 62-330, F.A.C.

- **Environmental Resource Permitting (ERP) is a state-level regulatory program established under Chapter 403 and Part IV of Chapter 373, F.S.**
- **Established in 1995 from merger of prior MSSW and dredge and fill programs.**
- **Functionally “linked” with management of state-owned (“sovereignty”) submerged lands, including aquatic preserves (Chapters 253 and 258, F.S.).**
- **Incorporates review of water quality certification (s. 401 CWA) and coastal zone consistency concurrence (FCMP) – needed by USACE.**
- **Robust and comprehensive program.**
- **Jointly implemented by DEP, WMDs and delegated programs.**
- **Later led to SWERP (AH Volume I and II, Chapter 62-330, F.A.C.)**



PROPOSE OF ERP

TO PROTECT FLORIDA'S WATER RESOURCES

WATER QUALITY

- **Ensure compliance with water quality standards.**

WATER QUANTITY

- **Prevent adverse flooding and drainage.**

ENVIRONMENTAL FUNCTIONS

- **Preserve fish and wildlife habitat functions.**
- **Protect threatened and endangered species.**



ERP STORMWATER

KEY ELEMENTS

- **Systems designed (and built) in accordance w/rules receive “rebuttable presumption: of compliance w/WQ standards.**
- **Each WMD establishes treatment and attenuation criteria (including special basins) within its boundaries (Volume II’s).**
- **Performance-based design requirements (e.g. 80/95% TSS removal).**
- **Common elements (1” vs. 1/2”, pre- vs. post-, etc.).**
- **Typical designs are “dry” retention or “wet” detention, with differing criteria for each.**
- **Less-common designs include exfiltration, swales, etc.**
- **Novel designs may be reviewed, if they provide reasonable assurance.**



ESTABLISHMENT OF THE STORMWATER TAC

- **Outreach presentations and requests for public input held:**
 - **July 30, 2020**
 - **Aug. 24, 2020**
- **TAC established Nov. 12, 2020.**
- **First TAC meeting held December 2020.**
- **A total of 10 meetings have been held.**
- **Two additional meetings are planned.**



FLORIDA DEPARTMENT OF Environmental Protection

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To: Florida ERP Stormwater Rulemaking Stakeholders

Date: November 12, 2020

Re: Establishment of the Clean Waterways Act Stormwater Rulemaking
Technical Advisory Committee

The Florida Department of Environmental Protection (DEP) is committed to protecting Florida's water and natural resources. Vital to DEP's mission is working cooperatively with state, local and federal agencies, communities and various stakeholder groups that provide key input, local knowledge and data to help inform our regulatory and environmental protection programs. In accordance with our mission and our commitment to public engagement, we are pleased to announce the establishment of the Clean Waterways Act Stormwater Rulemaking Technical Advisory Committee (TAC).

The Clean Waterways Act, Chapter 2020-150, Laws of Florida, passed the 2020 Florida Legislature with unanimous, bipartisan support and carries a wide range of water quality protection provisions aimed at minimizing the impact of known sources of nutrient pollution and strengthening regulatory requirements. Stormwater related pollution represents one of the largest potential contributors of nutrients throughout the state. To address these sources, the Clean Waterways Act directs the department and water management districts (WMDs) to update the design and operation regulations under Part IV, Chapter 373, Florida Statutes (F.S.), using the latest scientific information.

The department has already begun outreach seeking public input on this stormwater rulemaking with two public meetings that were held on July 30, 2020, and Aug. 24, 2020. The department has received significant public interest in this rule development process and has decided to establish a formal TAC that will provide an additional tool for public dialogue, and to receive



TAC PURPOSE

- **Public input is an important and valued part of all Florida rule development activities.**
- **The formation of a TAC provides the department and water management districts a way to seek and receive public input and recommendations during the rule development process.**
- **The TAC is focused on the stormwater rulemaking criteria found in the statewide environmental resource permitting (ERP) rules in Chapter 62-330, F.A.C.**



TAC MEMBERS

Stakeholder Category	Representative
• Academia, Florida Public or Private Research University	Dr. John Sansalone, University of Florida
• Agricultural Interest	Charles Shinn, Florida Farm Bureau Federation
• At-Large Technical Expert	Dr. Harvey Harper, P.E., Environmental Research and Design
• City Government/Florida League of Cities, Inc.	Richard Howard, P.E., City of Orlando
• County Government/Florida Association of Counties	Kim Ornberg, P.E., Seminole County
• Development Interest	David Carter, P.E., Florida Home Builders Association
• Environmental Interest, General	Elizabeth Alvi, Audubon Florida
• Environmental Interest, Water Resource Protection	Lesley Bertolotti, The Nature Conservancy
• Florida Stormwater Association	Kelli Hammer Levy, Florida Stormwater Association
• Low Impact Design / Green Infrastructure	Mark Thomasson, P.E., National Stormwater Trust, Inc.
• Stormwater Design Engineering and Consultants	Robert Beltran, P.E., Hydro Solutions LLC
• Stormwater Utilities	Virginia Barker, Brevard County Natural Resources Management Department
• Urban Redevelopment	Douglas Rillstone, Nelson Mullins



TAC MISSION

The mission of the Clean Waterways Act Stormwater TAC is established as follows:

Shall be to provide a forum for identifying and constructively outlining recommendations ... for strengthening the stormwater design and operation regulations implemented under Part IV, Chapter 373, F.S. ... based on the most recent scientific information available and the additional directions provided by section 5, Chapter 2020-150, Laws of Florida.



GOAL OF THE TAC

Develop and provide consensus stormwater rulemaking recommendations through public discussion and constructive deliberation.



TAC CHARGES

- **Options for identifying stormwater design criteria and best management practices to increase nutrient removal from stormwater discharges.**
- **Measures for consistent application of the performance standard to ensure significant reductions of any pollutant loadings to an impaired waterbody.**
- **Recommended changes to existing stormwater operation regulations to ensure water resources are protected.**



TAC SUMMARY REPORT

- **DEP is working with the TAC to develop a Summary Report.**
- **Current draft is under review.**
- **To be finalized in October.**



TAC DRAFT RECOMMENDATIONS

OPERATION AND MAINTENANCE (O&M)

- **Require an O&M plan as part of the permit.**
- **Future owners/HOAs would be bound by that O&M plan.**
- **Consider more frequent inspections.**

REGIONAL STORMWATER SYSTEMS

- **Consider mitigation “banks” for stormwater credits.**
- **More effective pollutant removal and maintenance.**
- **“Service area” needs to be within the same watershed/basin.**



TAC DRAFT RECOMMENDATIONS 2

REUSE WATER

- **Nutrient content should be evaluated.**
- **Should only be applied on an “as needed” basis.**
- **Consider AWT standards when reuse water is near waterbodies.**

PRESUMPTIVE CRITERIA VS. MONITORING



TAC DRAFT RECOMMENDATIONS 3

DEFINITIONS

- **Predevelopment**
- **Redevelopment**
- **Net Improvement**



TAC DRAFT RECOMMENDATIONS 4

DEVELOP A BEST MANAGEMENT PRACTICE (BMP) LIBRARY

- **Require 3rd party and field testing.**
- **Consider an administrative fee to maintain the library.**
- **Consider contracting out the review of BMPs.**
- **Develop labels/categories of various BMPs.**

RECONSIDER USE OF DRY DETENTION BASINS, SHOULD NOT BE A PRESUMPTIVE BMP



RULE DEVELOPMENT

- **Water management districts.**
- **DEP district offices.**
- **DEP divisions:**
 - **Division of Water Resource Management (DWRM).**
 - **Division of Environmental Assessment and Restoration (DEAR).**
- **Chief science officer.**
- **Local delegated governments**



RULEMAKING

- **Draft new rules.**
- **Seek public comments.**
- **Conduct workshops.**
- **Finalize rule.**
- **Implement rule.**



CONTACT INFORMATION

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SUBMITTING PUBLIC INPUT AND COMMENTS

Public input and comments are being accepted throughout the stormwater rulemaking process, and can be submitted both electronically and in hard copy format:

Email: Stormwater2020@FloridaDEP.gov

Mail: Stormwater 2020 Rule Development
Florida Department of Environmental Protection
2600 Blair Stone Rd., MS 3595
Tallahassee, FL 32399



TAC INFORMATION

- **Clean Waterways Act Stormwater Rulemaking TAC webpage:**
 - [FloridaDEP.gov/CWA-TAC](https://www.floridadep.gov/CWA-TAC)
- **Library/resources for TAC and the public:**
 - Copies of prior Stormwater Treatment TAC documents and other related items, public comment letters.
- **TAC meeting information, presentations and recordings, videos.**
- **Upcoming Meeting Announcements:**
 - **Sept. 14 and Oct. 19**
 - **DEP Events and Public Notices Calendar:** [FloridaDEP.gov/events](https://www.floridadep.gov/events)
 - **FAR:** [FLRules.org](https://www.flrules.org)

